

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

KAREN WHILES AND BOB WHILES,

Plaintiffs,

v.

CIVIL ACTION NO. 2:13-cv-08617

AMERIAN MEDICAL SYSTEMS, INC., et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending is a Motion to Dismiss Plaintiffs Karen Whiles and Bob Whiles' Complaint with Prejudice for Failure to Comply with Pre-Trial Order # 267, filed March 28, 2019. [ECF No. 18]. In the Motion, defendant Endo Pharmaceuticals, Inc., Endo Pharmaceuticals Holdings, Inc. and Endo Health Solutions, Inc. (hereinafter collectively "Endo") move to dismiss plaintiffs' claims with prejudice because plaintiffs did not produce a completed plaintiff fact sheet. Plaintiffs have not responded.

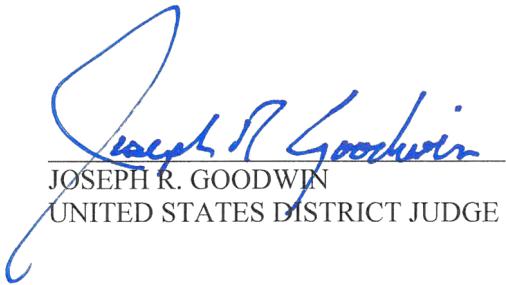
The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), the plaintiffs' claims against Endo should be dismissed without prejudice for failure to produce a completed plaintiff fact sheet in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that Endo's Motion to Dismiss [ECF No. 18] is **GRANTED in part** to the extent Endo seeks dismissal and **DENIED insofar as Endo seeks dismissal of the**

**entire case with prejudice.** The court ORDERS that defendants Endo Pharmaceuticals, Inc., Endo Pharmaceuticals Holdings, Inc. and Endo Health Solutions, Inc. are dismissed without prejudice. Because no defendants remain, the case should be stricken from the docket and closed.

The court DIRECTS the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 28, 2019



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE